IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION

JOSE MELENDREZ, JR.,	)	Filed July 27, 2001
	)	Clerk U.S. District Court
Plaintiff,	)	By Nona C.
	)	Deputy Clerk
VS.	)	
	)	CIVIL ACTION NO:
UNITED STATES OF AMERICA,	)	DR-01-CA-01-FB
TONY QUINTANILLA, and	)	
ARNOLDO RAMOS,	)	
	)	
Defendants.	)	

ORDER ACCEPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

The Court has considered the Report and Recommendation of the United States Magistrate Judge filed in the above styled and numbered cause on June 28, 2001, and Plaintiff Jose Melendrez, Jr., "objects" to the Report and Recommendation of the United States Magistrate Judge filed July 13, 2001.

Where no party has objected to a Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of them. See 28 U.S.C. & 636(b)(1) ("a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made"). In such cases, the Court need only

review the Report and Recommendation and determine whether they are either clearly erroneous or contrary to law. United States v. Wilson, 864 F.2d 1219, 1221 (5th. Cir), cert. Denied, 492 U.S. 918 (1989).

On the other hand, any report or recommendation to which there are objections requires de novo review by the Court. Such a review means that the Court will examine the entire record, and will make an independent assessment of the law. The Court need not, however, conduct a de novo review when the objections are frivolous, conclusive, or general in nature. Battle v. United States Parole Commission, 834 F.2d 419, 421 (5th Cir. 1987).

The Court has reviewed the objections and has conducted a de novo review of the Magistrate Judge's Report and Recommendation and finds the objections to the Magistrate Judge's Recommendation are without merit. This Court hereby accepts, approves, and adopts the Magistrate Judge's factual findings and legal conclusions contained in the Report and Recommendation filed June 28, 2001. The Report and Recommendation of the United States Magistrate Judge shall therefore be accepted pursuant to 28 U.S.C. & 636(b)(1) such that:(1) the Notice of Substitution and Application for Order thereon filed by the United States of America is the proper party defendant as to any common law torts raised in this suit against its employees and therefore, defendants Francis Seib, Moses Pena, and Larry Leon should be dismissed from this lawsuit and all

pleadings, motions and papers filed shall henceforth reflect that the United of America is substituted as the named defendant in their stead;(2) the motion for summary judgment(docket #11) filed by the United States of America should be GRANTED; (3) the motion to dismiss (docket #7) filed by defendant Tony Quintanilla should be GRANTED, and (4) the motion to dismiss (docket #3) filed by defendant Arnoldo Ramos should also be GRANTED.

Accordingly, it is hereby ORDERED that the Recommendation of the United States Magistrate Judge, filed in this case on June 28, 2001(docket #23), is ACCEPTED such that:(1) the Notice of Substitution and Application for Order Thereon filed by the United States of America (docket #9) is GRANTED such that defendants Francis Seib, Moses Pena, and Larry Leon are DISMISSED from this lawsuit pursuant to 28 U.S.C. & 2679(d)(1), and all pleadings, motions and papers filed shall henceforth reflect that the United States of America is substituted as the named defendant in their stead;(2) the motion for summary judgment(docket #11)filed by the United State of America if GRANTED; (3) the motion to dismiss (docket #7) filed by defendant Tony Quintanilla is GRANTED, and (4) the motion to dismiss (docket #3) filed by defendant Arnoldo Ramos is GRANTED. IT IS FURTHER ORDERED that this case is DISMISSED. Motions pending, if any, are also dismissed.

It is so ORDERED.

SIGNED this 26 day of July 2001.

FRED BIERY
UNITED STATES
DISTRICT JUDGE